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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,514	11/06/2001	Michael Landau	59149-8002.US01	1534
22918	7590	05/13/2008		
PERKINS COIE LLP P.O. BOX 2168 MENLO PARK, CA 94026			EXAMINER VAN BRAMER, JOHN W	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 05/13/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/005,514	Applicant(s) LANDAU ET AL.	
	Examiner John Van Bramer	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 12, 2008 has been entered.

Response to Amendment

2. The amendment filed on February 12, 2008 cancelled no claims. Claims 1, 9, 16, 24, 42, and 48 have been amended and no new claims were added. Thus the currently pending claims remain claims 1-53.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Bezos et al. (US Patent Number: 6,029,141).

Claims 1, 9, 16, 24, 32, 34, 41, 42, 49, 50, and 51: Bezos discloses a method, system, program, and apparatus for providing performance based referral credit based on user transactions utilizing a network comprising:

- a. Allowing a referring entity to present a publication to facilitate a user's subscription, the referring entity being assigned a unique identifier associated with the publication. (Col 1, line 50 through Col 2, line 18; and Col 7, lines 6-40)
- b. Receiving input from a user for subscribing to the publication utilizing a network. (Col 7, lines 52-60)
- c. Assigning a tracking code that traces to the user input and the unique identifier. (Col 8, lines 17-48)
- d. Forwarding the publication to the user with a user specified content based on the user input utilizing the network. (Col 7, lines 52-60)
- e. Allowing the user to select an entity associated with the publication. (Col 14, lines 1-37)
- f. Identifying the tracking code when the user conducts a transaction with the entity in order to provide a credit to the referring entity. (Col 1, line 50 through Col 2, line 18; and Col 14, line 38 through Col 15, line 16)

Claims 2, 10, 17, 25, 33, and 43: Bezos discloses a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 32, and 42 wherein the publication includes at least one of a newsletter and an e-mail announcement. (Col 1, line 50 through Col 2,

line 18)

Claims 3, 11, 18, 26, 35, and 44: Bezos discloses a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 34, and 42 wherein the user input includes an email address. (Col 8, lines 17-48)

Claims 4, 12, 19, 27, 36, 45, and 52: Bezos discloses a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 32, and 42, wherein the entity associated with the publication is represented by at least one of a link, an advertisement, contact information, an input button, a script, and a drop down menu. (Col 7, lines 6-60)

Claims 5, 13, 20, 28, 37, and 46: Bezos discloses a method, system, program, and apparatus as recited in claims 1, wherein the network includes at least one of a wide area network and a local area network. (Col 11, lines 50-61)

Claims 6, 14, 21, 29, and 38: Bezos discloses a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 32, and 42, further comprising providing compensation for the credit of the referring entity. (Col 7, lines 6-60)

Claims 7, 15, 22, 30, 39, 47, and 53: Bezos discloses a method, system, program, and apparatus as recited in claims 6, 14, 21, 29, 32, 42 and 52, wherein the compensation includes monetary compensation, return referrals, discounted services, and no-charge services. (Col 7, lines 6-60)

Claims 8, 23, 31, 40, and 48: Bezos discloses a method, system, program, and apparatus as recited in claims 1, 9, 22, 24, 32, and 42, wherein the tracking code includes the unique identifier. (Col 14, line 38 through Col 15, line 16)

Response to Arguments

5. Applicant's arguments filed July 25, 2007 have been fully considered but they are not persuasive.

- a. The applicant argues that Bezos does not teach allowing a referring entity to present a publication. However, this is precisely what Bezos is teaching. The affiliate in Bezos is the referring entity. The referring entity is presenting the publication to the customer (Col 1, line 50 through Col 2, line 18; and Col 7, lines 6-40). The applicant asserts that the publication in step a of the present application distinguishable over the associate's catalog of Bezos because the publication in the present application is used to receive a user's input for the purpose of the user's subscription. However, Bezos discloses presenting an associate's catalog to the user via Web documents, PUSH documents, e-mail newsletters, etc. (Col 1, lines 58-61). Thus, the presentation of the catalog is a publication of the catalog. Since the catalog contains hypertext links to further information regarding the products in the catalog it requires user input to facilitate the purchase of items in the catalog and as such the catalog is used to facilitate user purchases (Col 1, lines 62-66). Bezos discloses the use of an ISBN on the products sold and that ISBN stands for International Standard Book Number that is assigned to each published title and provides an unduplicated, internationally recognizable identity. ISBN's can be found on books, pamphlets, educational kits, microforms, CD-ROM and Braille publications in circulation

throughout the world (Col 5, lines 41-46). Since some of the items which contain ISBN's are item that are subscribable, the catalog that is published is used to facilitated a user purchasing a subscription.

- b. The applicant argues that the association of identifying information regarding the referring entity in Bezos is distinguishable over the claimed "Assigning a tracking code that traces to the user input and the unique identifier". However, the identifying information is incorporated when the user selects the hyperlink and as such meet the limitation of the claim as currently written (Col 11, line 43 through Col 12, line 51)
- c. The applicant argues that Bezos does not disclose "Forwarding the publication to the user with a user specified content based on the user input utilizing the network" because the publication referred to is subscribed to by a user. However, the examiner can find no such limitation in the claim. The claim never states that the publication is subscribed to. Instead the claim requires that the publication (catalog) facilitates the user in obtaining a product (subscription).
- d. The applicant argues that Bezos does not teach allowing the user to select an entity associated with the publication. However, Bezos specifically discloses in Col 14, lines 1-37, the user selecting publications based upon the referring entity associated with the publication. Col 12, lines 42-51 further discloses that the user can purchase additional items during the current referral session in which the referring entity receives compensation. The act of adding items to the cart is user input, that selects the current referral entity as the recipient of compensation for the users purchases.
- e. The applicant argues that Bezos does not disclose identifying the tracking code when the user conducts a transaction with the entity in order to provide a credit to the referring entity. However, this is specifically what Bezos discloses in Col 1, line 50

through Col 2, line 18; and Col 14, line 38 through Col 15, line 16, as well as in Col 13, lines 9 through 28 where Bezos discloses keeping “track of the sources (associates) of such referrals and how “this feature allows the merchant Web site to accurately track and credit each associate, on a per-product-sale basis”. The applicants attempt to recite distinguishable features in the arguments does not incorporate the distinguishing features as limitations imposed by the actual claim language. The claims as currently written are anticipated by the Bezos reference. Should the applicant wish to add limitations to the claims which require the distinguishing features that are presented as arguments, the examiner will consider the newly added limitations in regards to the Bezos reference and other applicable art.

Conclusion


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J.V.
/J. V./
Examiner, Art Unit 3622

/Eric W. Stamber/
Supervisory Patent Examiner, Art Unit 3622

<i>Application Number</i> 	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/005,514	LANDAU ET AL.	
	Examiner	Art Unit	
	John Van Bramer	3622	